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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DEBORAH A. HUMPHREY,

Plaintiff,

v.

JO ANNE B. BARNHART,
Commissioner of
Social Security,

Defendant.

CASE NO. **2:05-CV-00088-PAN**

STIPULATION AND [proposed]
ORDER REMANDING THE CASE
AND DIRECTING THE CLERK TO
ENTER JUDGMENT

IT IS HEREBY STIPULATED by the parties, through their undersigned attorneys, and with the approval of the Court as provided below, that the Commissioner has agreed to a voluntary remand of this case pursuant to sentence four of 42 U.S.C. § 405(g) for further proceedings. The purpose of the remand is to offer Plaintiff a new hearing and decision. Upon remand, the Administrative Law Judge should be instructed to:

- (1) evaluate the effect of the claimant's obesity in accordance with Social Security Ruling (SSR) 02-1p;
- (2) further evaluate Dr. Patel's medical source statement in light of the records from the treatment team at Sutter Tracy Community Hospital;
- (3) further evaluate the claimant's subjective complaints in accordance with SSR 96-7p; and
- (4) if consideration is given to step 5 of the sequential evaluation process, obtain vocational expert testimony.

Moreover, the ALJ may consider any additional issues and evidence or take any additional actions, as appropriate.

It is further stipulated that the Clerk shall enter a separate judgment, as provided for under Rules 58 and 79(a) of the Federal Rules of Civil Procedure, pursuant to Shalala v. Schaefer, 509 U.S. 292, 113 S. Ct. 2625 (1993).

The parties further stipulate that counsel for Plaintiff will provide a facsimile of this stipulation bearing counsel's signature for retention in Defendant's case file, and hereby authorizes counsel for Defendant to file this document in .pdf format under the latter's Electronic Case Filing password, pursuant to Local Rule 7-131.

DATED: October 26, 2005

/s/ Barbara M. Rizzo

Barbara M. Rizzo

Attorney for Plaintiff

DATED: October 26, 2005

McGREGOR W. SCOTT
United States Attorney

By: /s/ Bobbie J. Montoya

BOBBIE J. MONTOYA
Assistant U. S. Attorney

Attorneys for Defendant

OF COUNSEL:

LUCILLE GONZALES MEIS
Chief Counsel, Region IX

JOANN KIM
Assistant Regional Counsel

United States Social Security Administration

RE: DEBORAH A. HUMPHREY v. JO ANNE B. BARNHART, Case No. 2:05-CV-00088- PAN, STIPULATION AND ORDER STIPULATION REMANDING THE CASE AND DIRECTING THE CLERK TO ENTER JUDGMENT; [proposed] ORDER

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ORDER

The case of *Deborah A. Humphrey v. Jo Anne B. Barnhart*, Case No. 2:05-CV-00088-PAN, is hereby remanded pursuant to sentence four of 42 U.S.C. 405(g) for further proceedings consistent with the stipulation of the parties. The prior administrative decision is vacated and the Clerk of the Court is directed to enter Judgment.

SO ORDERED.

DATED: November 9, 2005.

**/s/ Peter A. Nowinski
PETER A. NOWINSKI
UNITED STATES MAGISTRATE JUDGE**

RE: DEBORAH A. HUMPHREY v. JO ANNE B. BARNHART, Case No. 2:05-CV-00088- PAN, STIPULATION AND ORDER STIPULATION REMANDING THE CASE AND DIRECTING THE CLERK TO ENTER JUDGMENT; [proposed] ORDER